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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   CHARLES MARTIN,

11   Petitioner,   No. CIV S-99-0223 WBS GGH P

12   vs.

13   S.L. HUBBARD, et al.,

14   Respondents.   ORDER
                                    /
15

16   On October 5, 2006, this court filed an order setting the briefing schedule upon a

17   Ninth Circuit mandate, filed in this court on September 29, 2006. On December 6, 2006,

18   respondent filed a motion to vacate the order, attaching exhibits demonstrating that the Ninth

19   Circuit had withdrawn the mandate as issued in error, by a filing dated September 28, 2006, but

20   not filed in this court's docket of the case. Respondent's exhibits also included a copy of the

21   Ninth Circuit's October 10, 2006, grant of a stay of the mandate, also not separately filed in this

22   court's docket. Respondent is correct that the withdrawal and stay of the mandate removed

23   jurisdiction from this court, which necessarily had the effect of vacating this court's briefing

24   order.

25   On December 15, 2006, the Ninth Circuit mandate remanding this matter was re-

26   filed in this court, renewing the previously withdrawn/stayed mandate.

1   Accordingly, IT IS ORDERED that:

2   1. Respondent's December 6, 2006, motion to vacate the briefing order, filed on

3 October 6, 2006, is granted, nunc pro tunc;

4   2. Pursuant to a renewed mandate from the Ninth Circuit, filed in this court on

5 December 15, 2006, respondent is now directed to file a response to those issues which remain,

6 Claims 3, 4, and two of the three subparts of Claim 6, of the Fourth Amended Petition, within 60

7 days;

8   3. If respondent's response is in the form of an answer, petitioner must file any

9 reply (traverse) within 45 days of the filing of the answer; if it is in the form of a motion, the

10 opposition is due within 45 days of the filing thereof. If an opposition is filed to a motion, any

11 reply by respondent is due within 30 days thereafter.

12 DATED: 2/5/07   /s/ Gregory G. Hollows

13   GREGORY G. HOLLOWS
                                          UNITED STATES MAGISTRATE JUDGE

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